

House Daily Reader

Tuesday, February 03, 2004

[illegible]

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0391

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1056 - 01/30/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: The Committee on Judiciary at the request of the Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to implement an interstate wildlife violator compact.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. An interstate wildlife violator compact is entered with all states legally joining
4 the compact in the form substantially as contained in this Act.

5 Section 2. The purpose of this Act and compact is to provide a means through which
6 participating states may join in a reciprocal program to provide for the fair and impartial
7 treatment of wildlife violators operating within participating states in recognition of the
8 violator's right to due process and the sovereign status of a participating state.

9 Section 3. Terms used in this Act and compact mean:

10 (1) "Citation," any summons, complaint, summons and complaint, ticket, penalty
11 assessment, or other official document that is issued to a person by a wildlife officer
12 or other peace officer for a wildlife violation and that contains an order requiring the
13 person to respond;

14 (2) "Collateral," any cash or other security deposited to secure an appearance for trial



1 in connection with the issuance by a wildlife officer or other peace officer of a
2 citation for a wildlife violation;

3 (3) "Compliance," with respect to a citation, the act of answering a citation through an
4 appearance in a court or tribunal, or through the payment of fines, costs, and
5 surcharges, if any;

6 (4) "Conviction," a conviction, including any court conviction, for any offense that is
7 related to the preservation, protection, management, or restoration of wildlife and that
8 is prohibited by state statute, law, regulation, ordinance, or administrative rule. The
9 term also includes the forfeiture of any bail, bond, or other security deposited to
10 secure appearance by a person charged with having committed any such offense, the
11 payment of a penalty assessment, a plea of nolo contendere, and the imposition of a
12 deferred or suspended sentence by the court;

13 (5) "Court," a court of law, including magistrate's court and the justice of the peace court,
14 if any;

15 (6) "Home state," the state of primary residence of a person;

16 (7) "Issuing state," the participating state that issues a wildlife citation to a violator;

17 (8) "License," any license, permit, or other public document that conveys to the person
18 to whom it was issued the privilege of pursuing, possessing, or taking any wildlife
19 regulated by statute, law, regulation, ordinance, or administrative rule of a
20 participating state;

21 (9) "Licensing authority," the department or division within each participating state that
22 is authorized by law to issue or approve licenses or permits to hunt, trap, fish, or
23 possess wildlife;

24 (10) "Participating state," any state that enacts legislation to become a member of this

1 wildlife compact;

2 (11) "Personal recognizance," an agreement by a person made at the time of issuance of
3 the wildlife citation that such person will comply with the terms of the citation;

4 (12) "State," any state, territory, or possession of the United States, the District of
5 Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other
6 countries;

7 (13) "Suspension," any revocation, denial, or withdrawal of any or all license privileges,
8 including the privilege to apply for, purchase, or exercise the benefits conferred by
9 any license;

10 (14) "Terms of the citation," those conditions and options expressly stated in the citation;

11 (15) Wildlife," all species of animals including mammals, birds, fish, reptiles, amphibians,
12 mollusks, and crustaceans, which are defined as wildlife and are protected or
13 otherwise regulated by statute, law, regulation, ordinance, or administrative rule in
14 a participating state. Species included in the definition of wildlife for purposes of this
15 compact are based on state or local law;

16 (16) "Wildlife law," any statute, law, regulation, ordinance, or administrative rule
17 developed and enacted for the management of wildlife resources and the uses thereof;

18 (17) "Wildlife officer," any individual authorized by a participating state to issue a citation
19 for a wildlife violation;

20 (18) "Wildlife violation," any cited violation of a statute, law, regulation, ordinance, or
21 administrative rule developed and enacted for the management of wildlife resources
22 and the uses thereof.

23 Section 4. The Department of Game, Fish and Parks shall enforce the interstate wildlife
24 violator compact and shall do all things within the department's jurisdiction that are necessary

1 to effectuate the purposes and the intent of the compact.

2 Section 5. When issuing a citation for a wildlife violation, a wildlife officer may issue a
3 citation to any person whose primary residence is in a participating state in the same manner as
4 though the person was a resident of the issuing state and may not require such person to post
5 collateral to secure appearance, subject to the exceptions noted in section 6 of this Act, if the
6 officer receives the recognizance of such person that the person will comply with the terms of
7 the citation.

8 Section 6. Personal recognizance is acceptable:

9 (1) If not prohibited by state or local law or the compact manual; and

10 (2) If the violator provides adequate proof of identification to the wildlife officer.

11 Section 7. If a person fails to comply with the terms of a wildlife citation, the person's failure
12 to comply shall be reported to the licensing authority of the issuing state. The report shall be
13 made in accordance with procedures specified by the issuing state and shall contain information
14 as specified in the compact manual as minimum requirements for effective processing by the
15 licensing authority of the violator's home state.

16 Section 8. Upon receipt of the report of noncompliance pursuant to section 7 of this Act, the
17 licensing authority of the issuing state shall transmit to the licensing authority of the violator's
18 home state information related to the failure of the violator to comply with the terms of a
19 citation in the form and content as prescribed in the compact manual.

20 Section 9. Upon receipt of a report from the licensing authority of the issuing state reporting
21 the failure of a violator to comply with the terms of a citation, the licensing authority of the
22 violator's home state shall notify the violator of the failure to comply through personal contact
23 by a wildlife officer or in writing by certified mail. The notice shall afford the violator a period
24 of thirty consecutive days to comply with the terms of the citation. The thirty-day period shall

1 commence from the date of personal contact or from the date of mailing of the notice by
2 certified mail. If the violator fails to comply with the terms of the citation within the thirty-day
3 period, the licensing authority of the home state may then suspend the violator's hunting,
4 trapping, or fishing privileges until satisfactory evidence of compliance with the terms of the
5 citation has been furnished by the issuing state to the home state licensing authority. Due
6 process safeguards shall be accorded and the licensing authority of the home state shall maintain
7 a record of actions taken and shall make reports to issuing states as provided in the compact
8 manual.

9 Section 10. Upon suspending the hunting, trapping, or fishing privileges of any person
10 pursuant to sections 8 and 9 of this Act, the licensing authority of the home state shall notify the
11 person in writing by certified mail. Within twenty days following mailing of the notice of
12 suspension, the person may request a hearing before the South Dakota Game, Fish and Parks
13 Commission on whether the requirements for suspension have been met. Upon request of the
14 person, the commission shall set a hearing as early as practicable. The requesting person may
15 present evidence and arguments at the hearing contesting whether the person failed to comply
16 with the terms of a citation issued for a wildlife violation in a participating state. Grounds other
17 than those listed in this section may not be used to contest the licensing authority's decision to
18 suspend the person's privileges.

19 Section 11. At the hearing, the commission, through its authorized agent, may:

- 20 (1) Administer oaths;
- 21 (2) Issue subpoenas for the attendance of witnesses; and
- 22 (3) Admit all relevant evidence and documents, including notifications from
23 participating states.

24 Following the hearing, the commission, through its authorized agent, may, based on the

1 evidence, affirm, modify, or rescind the suspension of privileges.

2 Section 12. If the person fails to request a hearing within twenty days of mailing of the
3 notice of suspension, or if the suspension of hunting, trapping, or fishing privileges is affirmed
4 by the commission or its authorized agent following a required hearing, the suspension of
5 hunting, trapping, or fishing privileges shall become effective and the person shall surrender any
6 current South Dakota hunting, trapping, or fishing license to the licensing authority within
7 fourteen days.

8 Section 13. All participating states may recognize the suspension of license privileges of any
9 person by any participating state as though the violation resulting in the suspension had occurred
10 in their state and could have been the basis for suspension of license privileges in their state.

11 Section 14. Each participating state shall communicate suspension information to other
12 participating states in form and content as contained in the compact manual.

13 Section 15. If the licensing authority of the home state receives notice of the suspension of
14 a person's hunting, trapping, or fishing privileges by a participating state, the licensing authority
15 may suspend the person's hunting, trapping, or fishing privileges in the home state for the same
16 duration as imposed by the participating state in accordance with § 41-6-75.1. The licensing
17 authority of the home state shall notify the person of the suspension of hunting, trapping, fishing
18 privileges in writing and direct the person to surrender any current South Dakota hunting,
19 trapping, or fishing license to the licensing authority within fourteen days.

20 Section 16. Except as expressly required by this compact, nothing in this compact may be
21 construed to affect the right of any participating state to apply any of its laws relating to license
22 privileges to any person or circumstance or to invalidate or prevent any agreement or other
23 cooperative arrangement between a participating state and a nonparticipating state concerning
24 wildlife law enforcement.

1 Section 17. For the purposes of administering this Act and compact and to serve as a
2 governing body for the resolution of all matters relating to the operation of this compact, a board
3 of compact administrators is established. The board is composed of one representative from
4 each of the participating states to be known as the compact administrator. The compact
5 administrator shall be appointed by the head of the licensing authority of each participating state
6 and serves and is subject to removal in accordance with the laws of the state that the compact
7 administrator represents. A compact administrator may provide for the discharge of duties and
8 the performance of functions as a board member by an alternate. An alternate is not entitled to
9 serve unless written notification of the identity of the alternate has been given to the board.

10 Section 18. Each member of the board of compact administrators is entitled to one vote. No
11 action of the board is binding unless taken at a meeting at which a majority of the total number
12 of the board's votes are cast in favor of the action. Action by the board may be only at a meeting
13 at which a majority of the participating states is represented.

14 Section 19. The board shall elect annually from its membership a presiding officer and a
15 vice presiding officer.

16 Section 20. The board shall adopt bylaws consistent with the provisions of this Act and
17 compact or the laws of a participating state for the conduct of its business and may amend and
18 rescind its bylaws.

19 Section 21. The board may accept for any of its purposes and functions under this compact
20 any and all donations and grants of money, equipment, supplies, materials, and services,
21 conditional or otherwise, from any state, the United States, or any governmental agency, and
22 receive, utilize, and dispose of the same.

23 Section 22. The board may contract with, or accept services or personnel from, any
24 governmental or intergovernmental agency, individual, firm, or corporation, or any private

1 nonprofit organization or institution.

2 Section 23. The board shall formulate all necessary procedures and develop uniform forms
3 and documents for administering the provisions of this compact. All procedures and forms
4 adopted pursuant to board action must be contained in a compact manual.

5 Section 24. This compact becomes effective at such time as it is adopted in a substantially
6 similar form by two or more states.

7 Section 25. Entry into the compact shall be made by resolution of ratification approved by
8 the South Dakota Department of Game, Fish and Parks Commission and submitted to the
9 presiding officer of the board.

10 Section 26. The resolution shall substantially be in the form and content as provided in the
11 compact manual and shall include the following:

- 12 (1) A citation of the authority from which the state is empowered to become a party to
13 this compact;
- 14 (2) An agreement of compliance with the terms and provisions of this compact; and
- 15 (3) An agreement that compact entry is with all states participating in the compact and
16 with all additional states legally becoming a party to the compact.

17 Section 27. The effective date of entry shall be specified by the applying state but may not
18 be less than sixty days after notice has been given by the presiding officer of the board of the
19 compact administrators or by the secretariat of the board to each participating state that the
20 resolution from the applying state has been received.

21 Section 28. A participating state may withdraw from participation in this compact by official
22 written notice to each participating state. Withdrawal does not become effective until ninety
23 days after the notice of withdrawal is given. The notice shall be directed to the compact
24 administrator of each member state. Withdrawal of any state does not affect the validity of this

1 compact as to the remaining participating states.

2 Section 29. The South Dakota Department of Game, Fish and Parks Commission is
3 authorized on behalf of the state to enter or withdraw from the interstate wildlife violator
4 compact pursuant to the terms of sections 24, 25, and 26 of this Act.

5 Section 30. This compact may be amended. Amendments shall be presented in resolution
6 form to the presiding officer of the board of the compact administrators and shall be initiated
7 by one or more participating states.

8 Section 31. Adoption of an amendment requires endorsement by all participating states and
9 becomes effective thirty days after the date of the last endorsement.

10 Section 32. Failure of a participating state to respond to the compact presiding officer within
11 one hundred twenty days after receipt of a proposed amendment constitutes endorsement of the
12 amendment.

13 Section 33. The South Dakota Department of Game, Fish and Parks Commission is
14 authorized to adopt amendments to the interstate wildlife violator compact pursuant to the terms
15 of sections 30, 31, and 32 of this Act.

16 Section 34. This compact shall be liberally construed so as to effectuate its intended
17 purposes. The provisions of this compact are severable, and if any phrase, clause, sentence, or
18 provision of this compact is declared to be contrary to the constitution of any participating state
19 or the United States, or the applicability thereof to any government, agency, individual, or
20 circumstance is held invalid, the validity of the remainder of the compact is not affected thereby.
21 If this compact is held contrary to the constitution of any participating state, the compact
22 remains in full force and effect as to the remaining states and in full force and effect as to the
23 participating state affected as to all severable matters.

24 Section 35. A person whose hunting, trapping, or fishing privileges have been suspended

- 1 and who hunts, traps, or fishes in this state or who applies for or purchases any licenses or
- 2 permits to hunt, trap, or fish in this state, is guilty of a Class 1 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

733J0519

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1123** - 01/30/2004

Introduced by: Representatives Michels and Konold and Senators Knudson and Bogue

1 FOR AN ACT ENTITLED, An Act to authorize banks to be organized as limited liability
2 companies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (1) of § 51A-1-2 be amended to read as follows:

5 (1) "Bank," any corporation or limited liability company, organized pursuant to chapter
6 47-34A, authorized under this title to engage in the business of banking or in the
7 combined business of a bank and trust company or in the combined business of a
8 bank with trust powers;

9 Section 2. That chapter 51A-3 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 A bank may be organized as a limited liability company. However, any bank that is
12 organized as a limited liability company may not have an existence longer than twenty years.
13 The commission shall promulgate rules pursuant to chapter 1-26, consistent with Title 51A, for
14 the organization, management, extension of its charter, and general administration of a bank that
15 is organized as a limited liability company. The rules shall facilitate the organization and capital



1 structure, the offering of trust business and the ability to develop branch bank and drive-in
2 facilities, the offering of remote service banking and bank services, the acceptance of deposits
3 and the making of investments, the offering of safe deposit and safe keeping protocols, the
4 making of loans, the reorganization of the limited liability company bank, and the operation of
5 a bank organized as a limited liability company to operate on an equal and parity basis with a
6 bank organized as a corporation.

7 Section 3. That § 10-43-10.1 be amended to read as follows:

8 10-43-10.1. Net income, in the case of a financial institution, is taxable income as defined
9 in the Internal Revenue Code, as amended, and in effect on January 1, 2003, and reportable for
10 federal income tax purposes for the taxable year, but subject to the adjustments as provided in
11 §§ 10-43-10.2 and 10-43-10.3. If a financial institution has elected to file its federal tax return
12 pursuant to 26 USC § 1362(a), as amended, and in effect on January 1, 1997, net income shall
13 be computed in the same manner and in the same amount as if that institution had continued to
14 file its federal tax return without making the election and the financial institution shall continue
15 to be treated as a separate corporation for the purposes of this chapter. If a financial institution
16 is organized as a limited liability company, the limited liability company shall be treated as a
17 separate corporation for the purpose of this chapter.

18 Section 4. That § 10-43-10.3 be amended by adding thereto a NEW SUBDIVISION to read
19 as follows:

20 For those financial institutions organized as limited liability companies, imputed federal
21 income taxes in an amount equal to the taxes that would have been paid on net income as
22 defined in § 10-43-10.1 had the financial institution elected to file as a subchapter C corporation
23 under the Internal Revenue Code.

24 Section 5. That § 47-34A-211 be amended to read as follows:

1 47-34A-211. (a) A limited liability company, and a foreign limited liability company
2 authorized to transact business in this state, except a bank organized pursuant to section 2 of this
3 Act, shall deliver to the secretary of state for filing an annual report that sets forth:

- 4 (1) The name of the company and the state or country under whose law it is organized;
- 5 (2) The address of its registered office and the name and address of its registered agent
6 for service of process in this state;
- 7 (3) The address of its principal office;
- 8 (4) The names and business addresses of any managers;
- 9 (5) The dollar amount of the total agreed contributions to the limited liability company.

10 (b) Information in an annual report must be current as of the date the annual report is signed
11 on behalf of the limited liability company.

12 (c) The first annual report must be delivered to the secretary of state concurrent with the
13 filing of the articles of organization. Subsequent annual reports must be delivered to the
14 secretary of state before the first day of the second month following the anniversary month of
15 the filing date.

16 (d) If an annual report does not contain the information required in subsection (a) or the fees
17 required by § 47-34A-212, the secretary of state shall promptly notify the reporting limited
18 liability company or foreign limited liability company and return the report to it for correction.
19 If the report is corrected to contain the information required in subsection (a) or the fees
20 required by § 47-34A-212 and delivered to the secretary of state within thirty days after the
21 effective date of the notice, it is timely filed.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

834J0246

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1134** - 01/30/2004

Introduced by: Representatives Murschel, Elliott, and Solum and Senators Brown, Ham-Burr, and Reedy

1 FOR AN ACT ENTITLED, An Act to authorize municipalities to enter into development
2 agreements.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 11-4-1 be amended to read as follows:

5 11-4-1. For the purpose of promoting health, safety, or the general welfare of the community
6 the governing body of any municipality may regulate and restrict the height, number of stories,
7 and size of buildings and other structures; the percentage of lot that may be occupied; the size
8 of the yards, courts, and other open spaces; the density of population; and the location and use
9 of buildings, structures, and land for trade, industry, residence, flood plain, or other purposes.
10 A municipality may enter into an agreement with any landowner specifying the conditions under
11 which the landowner's property may be developed.

12 Section 2. That chapter 9-4 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 A municipality may enter an agreement with any landowner specifying the conditions under
15 which the landowner's property may be annexed pursuant to § 9-4-1 or developed.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

654J0129

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1136** - 01/30/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Bartling, Gillespie, Hackl, Hargens, and Kraus and Senators Albers, Brown, Kloucek, and Koskan

1 FOR AN ACT ENTITLED, An Act to repeal the mandated business hours for certain county
2 offices and to require the county commissioners to establish the hours of operation for
3 county offices.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 7-7-2 be amended to read as follows:

6 7-7-2. ~~The auditor, treasurer, and register of deeds of each county in this state shall keep his~~
7 ~~office open and functioning during each day of the year, except Saturdays, Sundays, and~~
8 ~~holidays, at least from eight a.m. to twelve noon and from one p.m. to five p.m. The board of~~
9 ~~county commissioners may~~ shall, by resolution, ~~provide that the office of all such officers~~
10 ~~remain open and functioning during the noon hour of every business day and until noon on~~
11 ~~Saturdays~~ establish the hours of operation for each county government office. The county
12 auditor's office shall remain open, upon the request of a if requested by the person in charge of
13 a school or municipal election, until the closing of the polls and the tabulation of votes for that
14 election.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

559J0412

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1149** - 01/30/2004

Introduced by: Representatives Michels, Madsen, McCaulley, Peterson (Bill), and Teupel
and Senators Bogue, Koskan, and McCracken

1 FOR AN ACT ENTITLED, An Act to repeal the statutory authority relating to district
2 community centers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 42-1-1 be repealed.

5 ~~—42-1-1. A community center may be created and a community house therein erected,~~
6 ~~maintained, operated, and managed in any tract of contiguous territory containing not less than~~
7 ~~sixteen square miles or a population of at least one hundred inhabitants, such territory to be~~
8 ~~bounded by township or school district lines. Any such community may comprise two or more~~
9 ~~townships or school districts.~~

10 Section 2. That §§ 42-1-2 to 42-1-15, inclusive be repealed.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

833J0580

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1153** - 01/30/2004

Introduced by: Representatives Peterson (Bill), Madsen, Michels, and Olson (Mel) and
Senators Bogue, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to create a constitutional revision commission to make a
2 comprehensive study of the legislative article and related statutes and to consider and
3 recommend legislation for the improvement of the legislative article and related statutes.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. A commission is hereby created to provide for and enter into a comprehensive
6 study of Article III of the South Dakota Constitution and related statutes pertaining to the
7 Legislature to determine ways and means to improve Article III of the Constitution and related
8 statutes pertaining to the Legislature.

9 Section 2. The commission shall consist of seventeen members to be appointed as follows:

10 (1) Three by the president pro tempore of the South Dakota Senate, from former
11 members thereof, no more than two may be from one political party;

12 (2) Three by the speaker of the South Dakota House of Representatives, from former
13 members thereof, no more than two may be from one political party;

14 (3) Three by the Governor of South Dakota, each of whom shall be residents of the state
15 and no more than two may be from one political party;



1 (4) Three by the Governor of South Dakota, each of whom shall have a current or former
2 executive branch employment experience and no more than two may be from one
3 political party;

4 (5) Three by the Chief Justice of the Supreme Court of South Dakota from the members
5 in good standing of the State Bar of South Dakota, one of whom may be a judge of
6 a court of record in this state and no more than two may be from one political party;
7 and

8 (6) Two by the Governor, each of whom shall be a faculty member of a university or
9 college political science department located in the state.

10 Section 3. The commission shall meet during the 2004 and 2005 legislative interims. The
11 commission may hold meetings and hearings at times and places as it may designate. It shall
12 elect a chair, vice-chair, and such other officers from its membership as it deems necessary.

13 Section 4. The Legislative Research Council shall serve as the secretariat of the commission.
14 The Legislative Research Council shall assist in the conduct of such studies as may be directed
15 by the commission, utilizing the aid of consultants, private organizations, and institutions.

16 Section 5. The members of the commission shall be compensated in the same manner as
17 members of an interim legislative committee.

18 Section 6. The commission shall report its findings and recommendations in the form of
19 proposed amendments to the Constitution or the statutes to the Legislature at its regular session
20 in 2006. The content of any proposed constitutional amendment may only apply to the
21 Legislative article and may not affect the powers, duties, and responsibilities described in any
22 other article of the State Constitution.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

660J0508

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1161** -

01/29/2004

Introduced by: Representative Juhnke and Senator Duenwald

1 FOR AN ACT ENTITLED, An Act to prohibit certain practices associated with unarmed
2 retrieval of small game and to establish a penalty.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 41-9-8 be amended to read as follows:

5 41-9-8. Any person who knowingly enters or remains on private property for the purpose
6 of hunting, fishing or trapping, in violation of § 41-9-1 or 41-9-2, shall ~~have his~~ lose hunting,
7 trapping or fishing privileges ~~revoked~~ for one year following ~~such~~ the conviction. If the person
8 is the holder of a license to hunt, trap or fish, the court shall require the license holder to
9 surrender and deliver the license to the court to be returned to the Department of Game, Fish and
10 Parks. For the purpose of this section, the term, "guilty", has the same meaning as the term
11 "conviction", in § 32-12-53.

12 Unarmed retrieval of lawfully taken small game from either private land or land controlled
13 by the Department of Game, Fish and Parks or other public lands, is not a crime or petty offense,
14 ~~provided that such~~ if the retrieval of the small game does not involve the use of a motor vehicle.
15 No person engaged in the unarmed retrieval of small game may attempt to drive or flush



1 additional small game animals toward hunters located on other parcels of land or rights-of-way.
2 It is a Class 2 misdemeanor for any person, without permission of the landowner or lessee, to
3 attempt to drive or flush additional small game animals while engaged in the unarmed retrieval
4 of small game or to discharge a firearm at small game originating from private land where
5 another person is engaged in the unarmed retrieval of small game.

6 This section ~~may not be construed to~~ does not limit the civil remedies available to any
7 landowner.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

580J0409

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1166** - 01/28/2004

Introduced by: Representatives Glenski, Cradduck, Gassman, McCoy, McLaughlin,
Murschel, Rounds, Smidt, and Van Gerpen and Senators Earley and Abdallah

1 FOR AN ACT ENTITLED, An Act to require damage disclosure statements for certain large
2 boats.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon the sale, assignment, or transfer of a large boat, or if registering a large boat in South
7 Dakota which is titled in another state or jurisdiction, the seller, assignor, or transferor, or
8 person wishing to register in South Dakota a large boat which is titled in another state or
9 jurisdiction shall submit an accurately completed damage disclosure statement when applying
10 for a certificate of title pursuant to § 32-3A-20. The completed damage disclosure statement
11 may be on the back of the certificate of title or on a separate document that has been approved
12 for use by the department. No certificate of title may be issued by the department unless the
13 damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to
14 intentionally falsify any information on the damage disclosure statement. No person is liable to
15 a subsequent owner of a large boat because a prior owner of the large boat failed to disclose that



1 the large boat had previously been damaged and repaired. This section applies to any large boat
2 with damage in excess of five thousand dollars and is six years old or less. If the large boat has
3 incurred damages more than once, only those damages which occurred at one time would be
4 considered in determining whether the damages exceeded five thousand dollars.

5 Section 2. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For the purposes of the damage disclosure statement provided by section 1 of this Act, the
8 term, damage, means damage to the large boat caused by fire, vandalism, collision, weather,
9 submersion in water, or flood, and does not include normal wear and tear, glass damage,
10 mechanical repairs, or electrical repairs that have not been caused by fire, vandalism, collision,
11 weather, submersion in water, or flood.

12 Section 3. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
13 follows:

14 The department shall retain each damage disclosure statement received. The statement shall
15 become part of the title history available to the public pursuant to § 32-3A-38.

16 Section 4. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The department shall promulgate rules, pursuant to chapter 1-26, to prescribe the format for
19 the damage disclosure statement provided by section 1 of this Act. An area for a damage
20 disclosure statement shall appear on the back of each certificate of title issued by the
21 department. The department may also approve separate documents on which a damage
22 disclosure statement may be submitted. The damage disclosure statement form shall indicate
23 whether the large boat has been damaged such that it cost more than five thousand dollars to
24 repair to its predamaged condition and any other damage information the department deems

1 appropriate. If a separate document from the certificate of title contains the damage disclosure
2 statement, the document shall also require the following information: year, make, model, and
3 hull identification number of the large boat.

4 Section 5. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The dollar amount of damage to a large boat required to be disclosed pursuant to section 1
7 of this Act shall include the costs necessary to return the damaged large boat to its predamaged
8 condition. Such costs include parts, labor, paint, and hull work done on the damaged large boat.

9 Section 6. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any large boat that is required to be titled pursuant to this chapter and is sold or offered for
12 sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that
13 discloses damage to the large boat in accordance with the provisions of this Act, as determined
14 by the department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe
15 the format and construction of the sticker, decal, or notice.

16 Section 7. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Each certificate of title issued by the department shall contain the following phrase: South
19 Dakota state law requires the disclosure of damage on large boats. This information is available
20 upon written request from the Department of Revenue and Regulation. Each certificate of title
21 shall also contain on its front a statement as to whether previous damage disclosure statements
22 indicate the large boat had been damaged at one time in excess of five thousand dollars.

23 Section 8. That § 32-3A-38 be amended to read as follows:

24 32-3A-38. The department may upon written request and receipt of a five dollar fee furnish

1 a person a certified abstract of the title history which shall include any damage disclosure
2 statement of any boat registered under the provisions of this chapter. The abstract may include
3 all documents filed with the department to establish the title history of the boat. The fee shall
4 be deposited in the state motor vehicle fund. Governmental entities and their subdivisions are
5 exempt from this fee requirement.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

381J0464

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1175** - 01/28/2004

Introduced by: Representatives Madsen, Cutler, Haverly, Michels, and O'Brien and Senators Earley, Bogue, McCracken, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to establish the brownfields revitalization program and to
2 provide for the continuous appropriation of certain federal funds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Brownfields revitalization program," a program to provide funding to assist in the
8 assessment, cleanup, and redevelopment of brownfields sites;

9 (2) "Brownfields site," real property, the expansion, redevelopment, or reuse of which
10 may be complicated by the presence or potential presence of a hazardous substance,
11 pollutant, or contaminant;

12 (3) "Real property," residential, commercial, or industrial properties.

13 Section 2. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The state brownfields revitalization program is hereby established. A brownfields revolving



1 loan subfund and a brownfields assessment and cleanup subfund are created within the water
2 and environment fund established pursuant to § 46A-1-60. The subfunds shall be maintained
3 separately; and all money for use in the program shall be deposited into the subfunds, including
4 all federal brownfields revitalization program grants, all repayments of assistance awarded from
5 the subfunds, interest on investments made on money in the subfunds, proceeds of discretionary
6 bond issues allowed by § 46A-1-31, and principal and interest on loans made from the subfunds.
7 Money in the subfunds may be used only for purposes authorized under federal law. The
8 subfunds may be pledged or assigned by the district to or in trust for the holders of the bonds
9 of the district and may be transferred to and held by a trustee or trustees pursuant to § 46A-1-39.

10 Section 3. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Money from the brownfields revitalization program subfunds shall be disbursed and
13 administered according to rules promulgated by the Board of Water and Natural Resources
14 pursuant to chapter 1-26, § 46A-1-65, and the provisions of this Act. The provisions of §§
15 46A-1-61 to 46A-1-69, inclusive, do not apply to the brownfields revitalization program
16 subfunds of the water and environment fund or grants and loans from the subfunds made under
17 the brownfields revitalization program described in sections 2 to 5 of this Act, inclusive.

18 Section 4. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The Board of Water and Natural Resources shall promulgate rules pursuant to chapter 1-26
21 to implement the provisions of this Act consistent with the requirements of federal law in order
22 for an approved brownfields revitalization program to become eligible for grant funds from the
23 United States Environmental Protection Agency. The rules shall include criteria and procedures
24 for the selection of projects to receive funds from the brownfields revitalization program and

1 for the administration of the program.

2 Section 5. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The brownfields revitalization program subfunds are hereby continuously appropriated to
5 the South Dakota Board of Water and Natural Resources. Money received for these programs
6 may be used only for purposes authorized by the federal Small Business Liability Relief and
7 Brownfields Revitalization Act (P.L. 107-118) as amended to January 1, 2004.

8 Section 6. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any eligible entity may establish a brownfields program to prevent, assess, safely clean up,
11 and sustainably reuse eligible brownfields sites as authorized in the Comprehensive
12 Environmental Response, Compensation, and Liability Act of 1980, as amended to January 1,
13 2004, and in the Small Business Liability Relief and Brownfields Revitalization Act, P.L.
14 107-118 as amended to January 1, 2004.

15 Section 7. That chapter 46A-1 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any eligible entity establishing a brownfields program may exercise all powers necessary
18 or appropriate to carry out the purposes of this Act, including the following:

19 (1) To acquire by lease, purchase, gift, condemnation, or other lawful means and hold
20 in its corporate name or use and control as provided by law both real and personal
21 property and easements and rights-of-way within or without the corporate limits for
22 all purposes authorized by this Act or necessary to the exercise of any power granted
23 in this Act;

24 (2) To convey, sell, give, dispose of, or lease both the personal and real property of the

1 municipality or county as provided by this Act;

2 (3) To exercise the power of eminent domain only as necessary to carry out its purposes
3 and duties as provided in this Act;

4 (4) To borrow money and to issue certificates, warrants, general obligation bonds and
5 non-ad valorem tax bonds for purposes of this Act;

6 (5) To accept funds, property, and services or other assistance, financial or otherwise,
7 from federal, state, and other public and private sources to carry out the purposes of
8 this Act;

9 (6) To contract or cooperate with any person, the state, or any political subdivision of the
10 state, any federal agency, or any private or public entity to carry out the purposes of
11 this Act;

12 (7) To plan, develop, construct, acquire, operate, clean, maintain, repair, alter, renovate,
13 salvage, demolish, secure, abandon, consolidate, reclaim, or gather data and
14 information concerning any brownfields site, or any related development, structure,
15 or facility necessary to carry out the purposes of this Act; and

16 (8) To do and perform all acts authorized in this Act and all other acts necessary and
17 proper for carrying out and exercising the powers granted by this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

457J0098

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. HB 1201 - 01/28/2004

Introduced by: Representatives Williamson and Murschel and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of revenue bonds to finance
2 certain water pipelines or aqueducts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46A-1-72 be amended to read as follows:

5 46A-1-72. Construction of a ~~West River~~ pipeline or aqueduct from the Oahe a mainstream
6 Missouri reservoir, the Missouri River itself, or adjacent aquifers to the border with Wyoming
7 one or more communities in South Dakota is hereby authorized for a main delivery pipeline
8 capable of delivering ~~approximately twenty-seven thousand acre-feet of water per year with up~~
9 ~~to approximately seven thousand acre-feet to be available for use in western South Dakota and~~
10 ~~the balance into Wyoming~~ water sufficient to supply or supplement the needs of the
11 communities and other private or commercial users purchasing water from the communities.

12 Section 2. That § 46A-1-73 be amended to read as follows:

13 46A-1-73. The South Dakota Conservancy District is hereby authorized to issue bonds for
14 ~~the West River~~ a pipeline or aqueduct pursuant to section 1 of this Act in an amount not to
15 exceed ~~three hundred fifty~~ five hundred million dollars. The district may enter into a financing



1 agreement to loan the proceeds of the bonds as authorized by law. The financing agreement shall
2 provide for repayment of the loan through payments sufficient to pay the principal of, premium,
3 if any, and interest on the bonds. The loan shall be secured by ~~take or pay~~ contracts for the
4 ~~transportation of coal~~ delivery and sale of water and such additional security as is necessary for
5 repayment and to market the bonds. The bonds ~~shall~~ do not constitute an indebtedness of the
6 state and ~~shall~~ do not constitute nor give rise to a pecuniary or moral liability of the state or a
7 charge against its general credit or taxing powers. No tax revenues of the state, its people, or any
8 of its political subdivisions ~~shall~~ may be in any manner obligated to pay for any portion of the
9 construction or financing of the ~~West River~~ pipeline or aqueduct.

10 Section 3. That § 46A-1-74 be repealed.

11 ~~— 46A-1-74. The South Dakota Conservancy District is hereby authorized to contract, without~~
12 ~~using state tax revenues, for an independent market study to determine the demand for water~~
13 ~~from the West River Aqueduct.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

185J0008

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1222** - 01/30/2004

Introduced by: Representatives Peterson (Bill), Adelstein, Bartling, Begalka, Bradford, Buckingham, Christensen, Craddock, Cutler, Davis, Deadrick (Thomas), Dykstra, Elliott, Engels, Frost, Fryslie, Garnos, Gassman, Gillespie, Glenski, Hackl, Hanson, Hargens, Haverly, Hennies, Hundstad, Hunhoff, Juhnke, Konold, Kraus, Kroger, LaRue, Lintz, Madsen, McCaulley, McCoy, McLaughlin, Michels, Miles, Murschel, Nesselhuf, Novstrup, O'Brien, Olson (Mel), Olson (Ryan), Pederson (Gordon), Peterson (Jim), Rave, Rhoden, Rounds, Schafer, Sebert, Sigdestad, Smidt, Solum, Teupel, Thompson, Valandra, Van Etten, Van Gerpen, Van Norman, Weems, Wick, and Williamson and Senators Brown, Abdallah, Albers, Apa, Bogue, de Hueck, Dempster, Dennert, Duenwald, Duniphan, Duxbury, Earley, Greenfield, Ham-Burr, Jaspers, Kleven, Kloucek, Koetzle, McCracken, Moore, Nachtigal, Napoli, Reedy, Schoenbeck, Sutton (Dan), Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to designate the seventeenth day of April as Joe Foss Day.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 1-5 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The seventeenth day of April, to be known as Joe Foss Day, shall be observed in this state
6 as a working holiday. Joe Foss Day is dedicated to the remembrance and recognition of South
7 Dakota's favorite son and war hero, Governor Joe Foss.

